

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2005 OCT 12 P 3:08

UNITED STATES OF AMERICA )

v. )

FRANK DEPERGOLA, and )  
ARMANDO BOTTA )

Defendants. )

U.S. DISTRICT COURT  
CRIMINAL NO. 05-30002-MAP

THE GOVERNMENT'S MOTION TO RESCHEDULE THE TIME TO FILE  
ITS RESPONSE TO THE DEFENDANTS' MOTIONS TO DISMISS  
AND FOR ORDER OF EXCLUDABLE DELAY

The United States of America, by Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully requests the Court to reschedule the time for the government to file its response to the defendants' motions to dismiss the pending Indictment. The government further requests that the Court issue an order of excludable delay. In support of its motion the government states as follows:

1. The defendants' memoranda in support of their motions to dismiss were originally due on September 9, 2005, and the government's response was due on September 30, 2005. Defendant Botta submitted his motion to dismiss on September 9<sup>th</sup>, however, defendant Depergola received an extension until September 30<sup>th</sup> to file his memorandum of law in support of his motion to dismiss.

2. This Court had originally granted the government three weeks to file its response in opposition. Accordingly, the government requests that it be permitted to file its response on

October 21, 2005.

3. On October 5, 2005, the Court issued an order of excludable delay from March 2, 2005, through June 8, 2005.

4. The government requests that the Court issue an order indicating that the time from June 8, 2005, through October 21, 2005, is excludable from the Speedy Trial Act pursuant to 18 U.S.C. Section 3161(h)(8)(A).

5. Lori Levison, Esq., attorney for Armando Botta, assents to this motion.

WHEREFORE, the government respectfully requests that the Court permit the government to file its response in opposition to the defendants' motions to dismiss on October 21, 2005; and issue an order excluding the time from June 8, 2005, to October 21, 2005, under the Speedy Trial Act, 18 U.S.C. §3161(h)(8)(A).

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By:

Ariane D. Vuono / ds  
Ariane D. Vuono  
Assistant U.S. Attorney

Dated: October 12, 2005

CERTIFICATE OF SERVICE

Hampden, ss.

Springfield, Massachusetts  
October 12, 2005

I, Ariane D. Vuono, Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing by mail on Michael L. Foy, Esq. 935 Main Street, Suite 203, Springfield, MA 01103 and Lori Levinson, Esq., Cain Hibbard Myers & Cook, 66 West Street, Pittsfield, MA 01201.

Ariane D. Vuono / ss  
Ariane D. Vuono  
Assistant U.S. Attorney